

No. 5: Bulgaria July 1994

<H.cover>Structuring Public-Private Partnerships for Housing Development

<t.cover>With funding from the United States Agency for International Development (USAID), the International City/County Management Association (ICMA) and Planning and Development Collaborative International (PADCO) jointly developed a demonstration program to provide technical assistance and training to municipal officials and private developers in structuring public-private partnerships to stimulate private investment in housing. This monograph, which is based on initial work carried out in the cities of Stara Zagora, Rousse, and Bourgas, is intended to help Bulgarian mayors and local government officials develop new approaches for working with the private sector to address local housing needs.

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Founded in 1914, the International City/County Management Association (ICMA) is a non-profit professional association committed to enhancing the quality and performance of local government administration throughout the U.S. and internationally. ICMA has over 8,000 members world-wide, including top appointed administrators, elected officials, members of the academic community, and other professionals who share the goal of improving local government.

The mission of ICMA's International Municipal Programs is to support and strengthen local government institutions in developing countries and emerging democracies. With the financial support of the U.S. Agency for International Development's Office of Environment and Urban Programs, ICMA is engaged in a wide range of technical assistance activities in Central and Eastern Europe, the New Independent States (NIS), Latin America, Asia, and Africa. ICMA provides an array of services, training programs, and authoritative publications on virtually every aspect of municipal government, management, and finance.

In 1993, the United States Agency for International Development (USAID) asked ICMA to carry out a Local Government Assistance Program in Bulgaria. The goal of the Program is to encourage and support efforts to devolve responsibility, authority, and management of resources to local governments in Bulgaria.

ICMA has developed an initial technical assistance and training program with the cities of Bourgas, Rousse, Stara Zagora, and Blagoevgrad.

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<t1.intro>ICMA is working with cities throughout Bulgaria on practical problems and issues. Current work is underway in the areas of housing development, municipal finance, water conservation/infrastructure maintenance, and geographic information systems. This monograph is based on the work carried out in Stara Zagora, Rousse, and Bourgas by ICMA consultants Bill Claggett, Dimitar Doukov, and Peter Feiden. This report was funded by USAID under the Local Government and Housing Privatization Project for Central and Eastern Europe (Contract No. EUR-0034-C-00-2034-00, Request for Services #84).

<drop cap>As state investment in housing declines in Bulgaria, there will be a growing need for other forms of investment in housing to meet the needs of the population. One way for Bulgaria's cities to respond is to create opportunities for private investment in housing projects.

<t>Experience in Bulgaria and other transitional economies shows that the public and private sectors must work together to ensure that housing production continues. During this period of transition to a market economy, private developers and municipal officials throughout Bulgaria are interested in finding ways to structure public-private partnerships for housing development projects.

### <ha>A Process for Promoting Private Housing Development on Municipally-Owned Land

<t1>Currently, municipalities in Bulgaria who want to encourage private housing development accord rights to private developers to build housing units on municipally-owned land. In exchange for land development rights, municipalities receive a pre-determined number of units, which they can use for social housing. Whatever model for cooperation is used, a municipality that wants to promote private investment in housing must hold true to its foremost responsibility to its citizenry: to use public resources efficiently and for the common good. Therefore, the process by which a municipality engages the private sector to produce housing should be one that (1) leads to cost-effective solutions, (2) encourages creative approaches, (3) supports a municipality's specific objectives, and (4) involves transparent and fair competition. The Request for Qualifications/Request for Proposal (RFQ/RFP) process is designed to meet these objectives in the production of housing on municipal land.

### <hb>Soliciting Competitive Bids

### <hc after hb>Request for Proposal

<t1>Detailed proposals for housing development are solicited from private developers through an instrument known as a Request for Proposal (RFP). RFPs are intended to encourage open, fair competition, to elicit proposals that provide a complete and detailed description of a developer's

plan, to enable judgement of an offerer's capability to carry out the project, and to protect the municipality's financial and legal interests. In general, an RFP should include at least the following:

<tb1>Mandatory performance standards

<tb>General and special conditions or terms under which the developer will operate

<tb>Time frame for housing construction

<tb>Format and procedures for submitting a proposal

<tb>Schedule and process for review of proposals and selection of the developer

<tb2>Criteria by which competing proposals will be evaluated.

<hc>Request for Qualifications/Request for Proposal

<t1>As an alternative to issuing only an RFP, the municipality can choose to use an RFQ/RFP process. Through this process, the municipality first issues an RFQ, which typically explains the proposed housing development's objectives and general characteristics, states the proposed time frame and performance specifications, describes procedures for responding to the RFQ, and elicits certain information about potential developers. A response to the RFQ is much less detailed than a formal proposal.

<t>An RFQ is used to "pre-qualify" or "short-list" developers interested in participating in the project. Once this short-list is developed through the RFQ, the municipality can invite the selected developers to respond to the RFP with full proposals.

<t>Presented below is a summary of the RFQ/RFP process to promote private housing development on specific tracts of municipal land.

<hb>Establishing Specific Development Objectives

<t1>It is important for a municipality to establish specific development objectives before initiating the RFQ/RFP process. The municipality can use this process to achieve housing development objectives such as: (1) promoting affordable housing; (2) preserving historic structures and landmarks; (3) stimulating private sector development; (4) maximizing economic and social returns on municipal assets; and (5) a range of other more specific objectives related to a particular site. Objectives should be clearly outlined in the RFQ/RFP. It is likely that the municipality will have multiple objectives for a site, and it may be useful to rank these objectives in order of importance.

<t>In order to achieve as much as possible by way of private development, municipalities will need to articulate their objectives clearly. It may be necessary to separate objectives such as those pertaining specifically to a site (e.g., provide a play area for children) from those pertaining to city-wide or even national objectives (e.g., use energy-efficient technology).

<hb>Identifying Municipal Sites for Development

<t1>Municipalities should carefully consider the suitability and attractiveness of a site before it is selected for a housing development project through the RFQ/RFP process. In examining candidate sites, municipalities will want to consider the following types of issues:

<tb1>Is the location a good one for housing and would housing be consistent with existing land use plans?

<tb>Is the size of the site appropriate for private investment?

<tb>Is there access to critical infrastructure, or if not, will this infrastructure or connections be built?

<tb2>Is there clear title to the land?

<t>The importance of site location and size is directly related to market demand. Because the private developer would assume the risk and responsibility of selling the housing to prospective buyers, it is critical that the proposed site be located where there is effective demand for the proposed type of housing. (Effective demand means that people would both want to **and** could afford to buy or rent the housing at full, unsubsidized costs.) At present, effective demand is likely to be greatest for housing in infill locations with access to central city amenities and services.

<t>In terms of site size, smaller sites appropriate for perhaps 10-30 units are likely to be most desirable at present, given the developer's probable need to pre-sell units in order to secure construction financing. With smaller projects, it is also easier to create a condominium ownership structure to ensure proper building management.

<t>Access to infrastructure is another important factor in a site's attractiveness to private developers. Until mechanisms for funding infrastructure expansion exist, new housing should be promoted in areas served by existing infrastructure. Developers would ordinarily need to assume responsibility for on-site infrastructure improvements according to standards established by the municipality.

<t>A fundamental prerequisite for the participation of private developers in a development agreement with a municipality is the existence of clear title to the site. In Bulgaria, municipalities are more likely to transfer "development rights," in effect, and not freehold interest in the property. Even though municipalities "own" many sites, they must ensure that they have the full authority to transfer development rights or lease the property.

<t>An RFQ/RFP should contain a location and site map with a description of site features, planning constraints, and other salient information.

<hb>Preparing an RFQ and/or RFP

<t1>A municipality can use either the RFQ/RFP (two-step) or the RFP (one-step) process. The advantage of the RFQ/RFP process is that developers not selected to receive an invitation to submit a proposal do not have to spend resources on the preparation of a full proposal. Eliminating some bidders at this point could reduce unrealistic bidding, and also reduce the municipality's effort in the selection process.

<t>As part of the RFQ/RFP preparation process, municipalities must undertake a number of activities. These activities include:

<hc>Clarifying the Permit Approval Process and Simplifying If Necessary

<t1>The permit approval process should be streamlined so as to reduce the developer's uncertainty, costs, and schedule. The permits are of two types. One type is for infrastructure connections to water, sewer, electricity, gas, telephone, and possibly heating. The other type, associated with the municipality and the state, permits the developer to develop the site (i.e., planning permits, building permits, historic/cultural permits, etc.). At a minimum, the RFQ/RFP should contain a complete listing of all permits required and the sequence of steps the developer needs to go through in order to secure all permits.

#### <hc>Defining Relocation and Site Clearance Responsibilities

<t1>Relocation and site clearance responsibilities should be defined in order to ensure that development can proceed without unnecessary delays. If the project to be constructed is on a site with occupied housing, the municipality may be responsible for relocating tenants to other suitable housing. If the developer is responsible for site clearance, the value of the materials salvaged from the site should be taken into consideration in the bid price for the building rights.

#### <hc>Conducting Market Analysis

<t1>To ascertain the feasibility of proposed development projects, market analysis needs to be conducted. This could be achieved by requiring developers to submit a market study or analysis as part of the bid. Alternatively, the municipality could conduct a housing survey (a method used in developed market economies as well) which would yield valuable information to the municipality and could also be shared with private developers to help them better understand the market for new housing.

#### <hc>Defining Proposal Selection Criteria

<t1>Developers need to be assured that they are competing on a "level playing field" and that the selection process is objective and transparent. In order to ensure that developers clearly understand how their proposals will be reviewed and evaluated, proposal selection criteria need to be explained in the RFP. The process and time frame for bid review also need to be explained.

<t>Listed below are the major criteria by which proposals are usually evaluated.

<tb1>*Conformance to municipal objectives.* The extent to which the proposal conforms to city-wide and site-specific objectives.

<tb>*Timeliness of construction.* The time frame from contract to commencement of construction and to completion of construction, including the schedule when payments and/or transfer of living units to the municipality would occur.

<tb>*Performance.* The quality of the development team, including references for the developers, the contractor, the investor, the architect and engineers, and the marketing person or organization.

<tb>*Aesthetics.* The exterior appearance of the proposed building and grounds.

<tb>*Quality of development.* The quality of the proposed construction.

<tb>*Financial feasibility.* The likelihood that the project could be built and marketed as proposed.

<tb2>*Social housing needs.* The commitment of the developer to set aside housing units for low-income or disadvantaged groups, either directly or through the municipality. Also, the municipality might give preference to projects that contain market units designed to be affordable to the middle class.

#### <hc>Preparing a Model Development and Disposition Agreement

<t1>The instrument that provides the basis for implementing a public-private partnership is the Development and Disposition Agreement (DDA). This is a comprehensive legal document that specifies the performance requirements and auditing procedures for a particular project. The DDA sets forth the specifications for all aspects of the project, including site preparation and utilization, infrastructure provisions, financing, phasing, scheduling, etc. The DDA also provides the basis for resolving disputes, should they arise.

<t>A model DDA should be prepared for inclusion in the RFP, so that developers understand the legal ramifications of entering into a development agreement with a municipality. A draft DDA also serves to clarify the project's specific objectives and procedures.

#### <hc>Reviewing Development Proposals and Selecting Developers

<t1>The RFP submission, evaluation, and negotiation process must ensure fairness to all parties. Submission requirements should not unnecessarily preclude smaller or more recently established firms from competing. Evaluation criteria should be established with an appropriate numerical ranking system for judging submittals.

<t>A representative committee of the municipality should be established to review all proposals. Proposals should be opened by the committee to ensure objectivity.

<t>Submittals and evaluations should be open to public review. The negotiation of the final agreement between the developer and the municipality should be relatively consistent with the RFP and the selected submittal so that the fairness of the selection and negotiation process is not in question.

#### <ha>Municipal Objectives

<t1>As noted earlier, it is important for municipalities to establish specific development objectives as a part of the RFQ/RFP or RFP process. Some general municipal objectives that can be achieved through a public-private partnership housing project are: promoting home ownership, meeting housing needs, promoting economic development, generating municipal revenue, stimulating the real estate market, and enhancing the physical environment. As a starting point, some Bulgarian cities may find it useful to develop a comprehensive housing strategy as a framework for setting objectives for specific development projects.

<t>Municipalities also have an interest in fostering the growth of a developer industry with experience in housing. Parallel assistance to private developers may be useful to increase their ability to respond to RFPs and to perform in a timely manner.

#### <ha>The Municipality's Partnership Role

<t1>The true spirit of public-private partnership is that each partner brings something to a venture, and each is willing to give up some potential benefit for the greater public good. In this

context, a municipality's role in a public-private partnership needs to address each of the following functions.

#### <hb>Creating the Spirit of Entrepreneurial Partnership

<t1>A spirit of partnership is extremely important. It leads to the effectiveness of many other performance factors. In addition, the public sector needs to view its activities as would an entrepreneur; i.e., it must be willing and able to take risks to achieve results.

#### <hb>Preparing the Master Plan and Setting Objectives

<t1>The master plan and development objectives establish a framework for private sector response. The designation of certain lands for development provides a level of predictability of public actions. Setting objectives, both general and site-specific, aids private developers in preparing realistic responses to an RFP.

#### <hb>Facilitating Project Completion

<t1>This function includes taking all steps to make a land parcel legally available for private development, making a pre-appraisal of the site's market value, arranging for the effective phasing of development on the site, and expediting necessary government permits.

#### <hb>Promoting Fairness and Competition in Free Market Systems

<t1>The public sector must ensure participants that the bidding process will be open and fair. The careful and thorough preparation of an RFP, with objective standards to guide the selection of a developer and with the drafting of a model DDA, can result in a fair process that stands up to any challenge.

#### <hb>Providing Infrastructure and Related Community Facilities

<t1>Careful consideration needs to be given to the provision of infrastructure on proposed development sites. If the public sector is going to insist that the private sector provide the infrastructure, then in the spirit of partnership, the public sector needs to examine other ways it can offset the higher costs to developers. One way would be to reduce requirements on the number of living units that a municipality might otherwise insist on retaining, or by discounting the sales price of the site.

#### <hb>Assisting with Project Feasibility

<t1>The public sector can help with project feasibility through such measures as providing gap financing and discounting land prices and various fees. However, a municipality should offer no financial commitment unless (1) it has determined that the measure is justified in order to make a project feasible or affordable, and (2) it is able to meet its financial commitment on time.

#### <hb>Project Management and Contract Enforcement

<t1>This is a key role for the public sector. Once a partnership has been established, it is important that the municipality manage its commitments to ensure that there will be no unnecessary delays due to permit processing or compliance with other agreed commitments. In a similar vein, the municipality needs to monitor the developer to ensure that the developer's performance meets agreed standards. The public sector must further ensure that legal remedies

are available in the event that the developer, for whatever reason, fails to comply with some aspect of the written partnership agreement.

#### <ha>Learning by Doing

<t1>There is no magic formula for public-private partnerships in housing development. Each municipality will need to refine the process to be as effective as possible, given its particular characteristics and needs and the state of the private sector. Municipalities should try the RFP or RFQ/RFP process for one to three sites initially, review how it has worked, and refine the process for the next time.